REMARKS

The Office Action mailed May 28, 2008 has been received and reviewed. Each of claims 1-16 and 18-31 stands rejected. Claims 1-15, 17-18, and 25 have been canceled herein. Claims 32-45 are newly added. Claims 16, 19, 21, and 26 have been amended herein. Care has been exercised to introduce no new subject matter. Reconsideration of the above-identified application in view of the above amendments and the following remarks is respectfully requested.

New Claims

Claims 32-45 are newly added claims. Claims 32-45 are believed to be in a condition for allowance. Such favorable action is respectfully requested

Rejections based on 35 U.S.C. § 101

Claims 15 and 25 have been cancelled herein. As such it is respectfully requested that the 35 U.S.C. § 101 rejection thereof be withdraw.

The United States Supreme Court has recognized that the expansive language of 35 U.S.C. § 101 includes as statutory subject matter "anything under the sun that is made by man." *Diamond v. Chakrabarty*, 447 U.S. 303, 308-09 (1980). The USPTO has adopted the Supreme Court's interpretation and has stated that, in practice, the complete definition of the scope of 35 U.S.C. § 101 "is that any new and useful process, machine, manufacture or composition of matter under the sun that is made by man is the proper subject matter of a patent." MPEP 2106(IV)(A). More specifically, the MPEP states that "computer programs are often recited as part of a claim." MPEP 2106.01(I). In considering such claims, "USPTO personnel should determine whether the computer program is being claimed as part of an

otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim." *Id.*; *see also In re Beauregard*, 53 F.3d 1582 (Fed. Cir. 1995). "The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program." MPEP 2106.01(I).

Claims 26-31 stand rejected under 35 U.S.C. § 101 as being directed toward non-statutory subject matter. More specifically, claims 26-31 stand rejected under 35 U.S.C. § 101 as being directed toward software, per se. *See*, *Office Action* at p. 3. Applicants respectfully submit that as amended, claim 26 recites a system having a processor and memory, which are associated computer hardware/structures or devices that implement the features of claims 26-31 that overcomes the rejection and, as such, Applicant request withdrawal of the 35 U.S.C. ¶ 101 rejection of claims 26-31.

Rejections based on 35 U.S.C. § 103

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some "articulated reasoning with some

rational underpinning to support the legal conclusion of obviousness." *KSR Int'l Co. v. Teleflex Inc.,* 127 S. Ct. 1727 at 1741, 82 USPQ2d at 1396 (quoting *In re Kahn,* 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) with approval)." *See also* MPEP § 2142. "[R]ejections on obviousness cannot be sustained with mere conclusory statements." *Id.* Thus, in order to establish a *prima facie* case of obviousness the Office must provide "a clear articulation of the reason(s) why the claimed invention would have been obvious" based on factual findings made while conducting the *Graham* factual inquires. *See* MPEP § 2143. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *Id.*

Rejection based on the Allen reference and the Balasuriya reference.

Claims 16, 18-19, 21-24, 26-27 and 29-31 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0149705 to Allen et al. (hereinafter the "Allen reference") in view of U.S. Publication No. 2003/0041048 to Balasuriya (hereinafter the Balasuriya reference").

Independent claim 16 is directed to a method for facilitating electronic communications management by a system user. The method includes <u>generating a unique reference</u> for the system user. <u>The unique reference is required</u> for identities to access a unique identity belonging to the system user. The method also includes permitting access to the unique identity belonging to the system user through the unique reference. <u>The unique identity comprises</u> a plurality of components and the plurality of components are defined to include <u>a plurality of electronic devices</u>. The method additionally includes allowing the system user to <u>alter any one of the plurality of components without altering the unique reference.</u> The method also includes providing the system user with tools for regulating access to the plurality of components such that <u>selected known identities have access to selected components</u> of the

plurality of components. The selected components of the plurality components are authorized, by the system user, to accept electronic communications from the selected known identities wherein <u>the unique reference is required to be used by the selected known identities to communicate with the selected components.</u> The method additionally includes allowing the system user to select a communications delivery method for receiving communications from each of the select known identities. (emphasis added)

To the contrary, the Allen reference is directed to a hybrid communicator/remote control that is configured to display a contact list. *See generally*, *Allen reference*, Abstract. A contact is a list of persons to whom the caller (user of the hybrid communicator/remote) may wish to communicate. *See Allen reference*, ¶[0026]. Also to the contrary of the invention of claim 16, the Balasuriya reference is directed to method of executing an action in a communications node, wherein the communications node has access to a schedule database and a rules database. *See Balasuriya reference,* Abstract.

It is respectfully submitted that the Allen reference viewed in light of the Balasuriya reference fails to teach or suggest <u>generating a unique reference</u> for the system user, wherein <u>the unique reference is required for identities to access a unique identity belonging to the system user.</u> The Office acknowledges that the Allen reference fails to expressly teach such a feature and, instead asserts that the Balasuriya reference teaches the feature. *See Non-final Office Action dated 05/28/2008*, p. 10. The Office asserts that the deriving of a caller identity based on a phone number, IP address, or device information, as described in the Balasuriya reference teaches generating a unique reference for the system user as recited in claim 16. *Id.*

The Balasuriya reference describes a caller whose identity is "derived from a phone number, an IP address, network identification, or an e-mail address or a PIN number or

the like." *See Balasuriya reference*, ¶[0023]. The identity that is derived is that of the person who is calling to the system in an attempt to contact the subscriber of the system. The subscriber is the person who employees the Balasuriya reference's system. Initially, it is respectfully submitted that deriving of a caller's identity does not teach or suggest generating a unique reference. The caller's identity is not generated by the Balasuriya reference system, instead it is derived or determined, which inherently means that the identity exists and therefore was generated by an alternative system other than the Balasuriya reference. For example, an identity described by the Balasuriya reference includes a phone number based on caller ID. The caller's phone number is not generated by the Balasuriya reference system, instead the phone number is assigned, in an exemplary situation, by a phone service provider. The Balasuriya reference merely determines the caller's phone number based on the caller ID that accompanies the call. Yet another example of the Balasuriya reference's derived caller identity include an IP address. The IP address is not generated by the Balasuriya reference, instead the IP reference is assigned by an internet service provider that is utilized by the caller. Therefore, it is respectfully submitted that the Balasuriya reference fails to teach or suggest generating a unique reference, but instead merely describes deriving an existing identifier of the caller, which is fundamentally different and departs from the spirit of claim 16.

Additionally, the Balasuriya reference fails to describe generating a unique reference <u>for the system user</u>. For discussion purposes only, if the Balasuriya reference does generate a unique reference, which Applicant denies that is does, the unique reference would be that of the caller, not the system user as recited in claim 16. The system user of claim 16, is the user that receives communications from select known identities, similar to the subscriber of the Balasuriya reference. The select known identities of the claim 16 are entities attempting to

contact the system user, e similar to the callers of the Balasuriya reference. Independent claim 16 recites generating a unique reference <u>for the system user</u>, but the Balasuriya reference describes deriving an identifier for the caller, not the subscriber. The caller's derived identity of the Balasuriya fails to teach or suggest the unique reference that is generated in claim 16to permit access to the unique identity of the system user. For example, the caller's caller ID of the Balasuriya reference does not provide access to the subscriber, instead the caller's caller ID is used to determine a priority of the caller. *See Balasuriya reference*, FIG. 3.

As such, it is respectfully submitted that the Allen reference and the Balasuriya reference, either alone or in combination, fail to teach or suggest generating a unique reference for the system user.

It is respectfully submitted that the Allen reference and the Balasuriya reference, either alone or in combination, fail to teach or suggest <u>permitting access to the unique identity</u> belonging to the system user through the unique reference, wherein <u>the unique identity comprises</u> a plurality of components and the plurality of components are defined to include <u>a plurality of</u> <u>electronic devices</u>.

The Office asserts that the Allen reference teaches this feature through a unique address or telephone number associated with the contacts, which are needed to initiate communication between the contacts and users. *See Non-final Office Action dated 05/28/2008*, p. 9. As recited in claim 16, the unique identity comprises a plurality of electronic devices. The Allen reference fails to teach or suggest permitting access to a unique identity of a system user through a unique reference, wherein the unique identity comprises a plurality of electronic devices. Instead, the Allen reference, at the most, describes a contact list that is accessible by the user of the remote control to communicate to a contact included with the contact list. *See Allen*

reference Fig. 8. Therefore, the Allen reference describes a contact list that allows the user to call out to contacts as opposed to a user regulating incoming communications. Additionally, clam 16 recites permitting access to the unique identity belonging to the system user through the unique reference, but the unique reference as asserted by the Office (e.g. caller ID of an incoming caller) does not permit access to the unique identity of the system user, instead the caller ID is merely utilized to populate the contact list of the Allen reference. *See Allen reference,* ¶[0065]. It is respectfully submitted that the populating or "adding" of a contact to a contact list does not teach or suggest permitting access to the unique identity belonging to the system user.

Accordingly, it is respectfully submitted that the Allen reference as modified by the Balasuriya reference does not teach or suggest all of the features of independent claim 16. Thus, Applicant respectfully submits that the Allen and Balasuriya references, either alone or in combination, fail to teach or suggest all of the features of independent claim 16. Therefore, a *prima facie* case of obviousness has not been established for independent claim 16. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 16 under 35 U.S.C. § 103(a). Claims 16 is believed to be in condition for allowance and such favorable action is respectfully requested

Claims 19, and 21-24 depend directly or indirectly from independent claim 16. As such, Applicant respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of these claims as well.

Turning now to independent claim 26, which is directed to a system having a processor and memory for allowing a user having a unique identity to manage communications, wherein the unique identity is associated with a plurality of electronic devices. The system

includes a service for <u>generating and assigning a unique reference to a user's unique identity</u> such that the unique reference is a pointer to the user's unique identity, wherein an authorized identity can access the user's unique identity to communicate with the user only by using the unique reference. The system additionally includes permission controls for allowing the user to control access to the unique identity by restricting authorization to a selected set of other identities, which includes the authorized identity. The system also includes preference controls for allowing the user to select at least one device from a plurality of devices associated with the user, the at least one device is selected for receiving communication upon an access attempt by the authorized identity using the unique reference.

It is respectfully submitted that the Allen reference and the Balasuriya reference, either alone or in combination, fail to teach or suggest a service for <u>generating and assigning a unique reference to a user's unique identity</u> such that the unique reference is a pointer to the user's unique identity. The Office acknowledges that the Allen reference fails to disclose a service for generating a reference to a user's identity, but instead alleges that the Balasuriya reference cures the deficiency of the Allen reference. *See non-Final Office Action dated 05/28/2008*, p. 12-13.

As previously discussed with respect to claim 16, the Balasuriya reference fails to teach generating a unique reference. Instead, the Balasuriya reference merely describes <u>deriving</u> an existing identifier of the caller, which is fundamentally different from generating as previously discussed. This fundamental difference departs from the spirit of claim 26.

Additionally, as also discussed with respect to claim 16, the Balasuriya reference fails to teach generating a unique reference for the user's unique identity. As discussed above, the Balasuriya reference derives an address, such as a caller ID for an incoming caller. Even if,

the Office maintains that "deriving" teaches "generating", which applicant strongly disagrees with, the phone number of the incoming caller (as taught by the Balasuriya reference) is not a unique reference for a user as defined by the claims. Claim 26 describes a user as being able to restrict access to a select set of identities that are attempting to access to the user. Therefore, the caller ID of a caller attempting the access a subscriber of the Balasuriya reference is different from a unique reference of a user that restricts other identities from accessing the unique identity of the user. The Balasuriya reference describes a reference for the caller, while claim 26 is includes a unique reference of the user, a recipient of communications.

Accordingly, it is respectfully submitted that the Allen reference as modified by the Balasuriya reference does not teach or suggest all of the features of independent claim 26. Thus, Applicant respectfully submits that the Allen and Balasuriya references, either alone or in combination, fail to teach or suggest all of the features of independent claim 26. Therefore, a *prima facie* case of obviousness has not been established for independent claim 26. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 26 under 35 U.S.C. § 103(a). Claims 26 is believed to be in condition for allowance and such favorable action is respectfully requested

Claims 27 and 29-31 depend directly or indirectly from independent claim 26. As such, Applicant respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of these claims as well.

Rejection based on the Allen reference, the Balasuriya reference, and the Burgress reference.

Claims 20 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Allen reference in view of the Balasuriya reference further in view of U.S. Patent No. 6,359,970 to Burgess (hereinafter the "Burgress reference"). Claim 20 depends from

independent claim 16. Claim 28 depends from independent claim 26. Both claims 16 and 26

were discussed herein above with respect to the Allen reference and the Balasuriya reference.

The Burgress reference is directed to a call controller that identifies a caller ID of

an incoming caller. The caller ID is then used to assign a priority level, which is used to block

that caller during specified time block. *See Burgress reference*, Abstract. It is respectfully

submitted that the Burgress reference fails to cure at the deficiencies of the Allen and Balasuriya

references. For example, the Burgress reference fails to teach or suggest generating a unique

reference of the system user. Instead, the Burgress reference utilizes a caller ID of the caller to

determine which of the calls are passed to the user. *Id.* Therefore, it is respectfully submitted

that the Burgress reference fails to cure the deficiencies of the Allen and Balasuriya references

with respect to claims 16 and 26. As such, Applicant respectfully request withdrawal of the 35

U.S.C. § 103(a) rejections of these claims as well.

CONCLUSION

For at least the reasons stated above, claims 16 and 18-45 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or cwfisher@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112 referencing Attorney Docket No. MFCP.101281.

Respectfully submitted,

/Cory W. Fisher/

Cory W. Fisher
Reg. No. 59,366

CWF/tq
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550